

Joe Shaeffer, WSBA #33273
MacDonald Hoague & Bayless
On behalf of The American Civil Liberties
Union of Washington Foundation
705 Second Avenue, Suite 1500
Seattle, WA 98104-1745
206-622-1604

Hon. Thomas O. Rice

Katherine M. Forster, CA Bar #217609
Munger, Tolles & Olson LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071
213-683-9538

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT RICHLAND

JOHN DOE 1; JOHN DOE 2; JANE
DOE 1; JANE DOE 2; JANE DOE 3;
and all persons similarly situated,

Plaintiffs,

V.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS;
STEPHEN SINCLAIR, Secretary of The
Department of Corrections, in his official
capacity,

Defendants,

and

BONNEVILLE INTERNATIONAL, INC. a Utah Corporation, d.b.a KIRO Radio 97.3 FM; THE MCCLATCHY COMPANY, LLC, a California Limited Liability Company, d.b.a. The Tacoma News Tribune; and ANDREA KELLY, an individual,

Interested Parties.

No. 4:21-cv-05059-TOR

DECLARATION OF JOE
SCHAFFER IN SUPPORT OF
PLAINTIFF'S RESPONSE TO
INTERESTED PARTY THE
McCLATCHY COMPANY'S
BRIEFING

**DECLARATION OF JOE SHAFFER IN SUPPORT OF PLAINTIFF'S
RESPONSE TO INTERESTED PARTY THE McCLATCHY
COMPANY'S BRIEFING - 1**

MACDONALD HOAGUE & BAYLESS
705 Second Avenue, Suite 1500
Seattle, Washington 98104
Tel 206.622.1604 Fax 206.343.3961

1 I, Joe Shaeffer, declare as follows:

2 I am one of the attorneys for Plaintiffs John Does 1-2 and Jane Does 1-3. I
3 am over the age of 18 and am competent to testify.

4 1. Attached hereto as Exhibit 1 is a true and correct copy of the email
5 dated April 8, 2021 sent at 1:14 p.m. to all the interested parties notifying them of
6 this lawsuit and providing them with the filed documents.

7 2. Michelle Earl-Hubbard and I spoke on the telephone shortly after my
8 email to the requestors.

9 3. Attached hereto as Exhibit 2 is a true and correct copy of the email
10 from Michelle Earl-Hubbard dated April 8, 2021 sent at 6:03 p.m. acknowledging
11 receipt of the email, refusing to accept service, and insisting on formal service of
12 process on her client's registered agent.

13 4. Attached hereto as Exhibit 3 is a true and correct copy of the
14 Declaration of Service by Seattle Legal Messenger upon the Registered Agent for
15 The McClatchy Company.

16 5. On April 9, 2021, Jason Englund, counsel for Bonneville/KIRO
17 Radio, emailed to say that his client KIRO Radio / Bonneville International, would
18 waive formal service and accept service by email. He later wrote that his client
19 would not be participating in the litigation for the time being.

20 I declare under penalty of perjury of the laws of the United States of
21 America and the State of Washington that the foregoing is true and correct.

22 DATED this 14th day of May, 2021, at Seattle, Washington.

23 s/ Joe Shaeffer
Joe Shaeffer

1 **CERTIFICATE OF SERVICE**

2 I certify that on the date noted below I electronically filed the above-entitled
3 document with the Clerk of the Court using the CM/ECF system which will send
4 notification of such filing to the following persons:
5

6 **Attorneys for Defendants DOC and Stephen Sinclair:**

7 **Washington State Attorney General's Office**

8 Candie Dibble, candie.dibble@atg.wa.gov
Patty E. Willoughby, patty.willoughby@atg.wa.gov

9 **Attorney for Interested Parties:**

10 **Andrea Kelly:**

11 Candice Jackson, cjackson@fmglaw.com

12 **The McClatchy Company, LLC:**

13 Michele Earl-Hubbard, michele@alliedlawgroup.com

14 **Bonneville International, Inc.:**

15 Jason Englund, jenglund@bonneville.com

16 DATED this 14th day of May, 2021, at Seattle, Washington.

17
18
19
20 _____
21 *s/ Marry Marze*
Marry Marze, Legal Assistant
22
23

EXHIBIT 1

From: Joe Shaeffer
To: akelly617@icloud.com; agranillo@bonneville.com; stacia.glen@thenewstribune.com
Cc: Forster, Katherine; Ethan Frenchman; Nancy Talner; Dibble, Candie M (ATG)
Subject: Doe v. DOC, Sinclair and Interested Parties - Lawsuit Filed
Date: Thursday, April 8, 2021 1:14:00 PM
Attachments: [image001.png](#)

Dear Ms. Kelly, Mr. Granillo, and Ms. Glenn:

I am writing to you on behalf of the ACLU of Washington Foundation and Disability Rights Washington, and our clients, who are current and former transgender, non-binary, and intersex inmates and in custody of the Washington Department of Corrections.

We have filed for an emergency Temporary Restraining Order and a Motion for Preliminary Injunction to prevent the disclosure of documents you have requested from the Department of Corrections. You or your employers are listed as "Interested Parties."

We will attempt to serve McClatchy and Bonneville through their registered agents, but if your employers are willing to accept service through this email, that would be much appreciated. Please let me know. Ms. Kelly, all we have is your email, so this is the best we can do on short notice for service.

In the folder below you will find all documents that have been filed in this matter. Please let me know if you have any questions.

[DOES v DOC - Filings through 2021-04-08](#)

Sincerely,
Joe Shaeffer

Joe Shaeffer | Attorney | MacDonald Hoague & Bayless
705 Second Avenue, Suite 1500 | Seattle, WA 98104
☎ 206.622.1604 | Fax 206.343.3961 | ☐ joe@mhb.com | www.mhb.com

EXHIBIT 2

From: Michele Earl-Hubbard
To: Joe Shaeffer
Cc: akelly617@icloud.com; agranillo@bonneville.com; stacia.glen@thenewstribune.com; Forster, Katherine; Ethan Frenchman; Nancy Talner; Dibble, Candie M (ATG)
Subject: RE: Doe v. DOC, Sinclair and Interested Parties - Lawsuit Filed
Date: Thursday, April 8, 2021 6:03:36 PM
Attachments: [image002.png](#)

Mr. Shaeffer: I represent McClatchy Company LLC, a Delaware LLC d/b/a the News Tribune. Ms. Glenn and I will not accept service pursuant to the below email. You need to serve my client directly through its registered agent. And as we discussed on the phone late this afternoon, you must serve all public record requestors under *Burt v. Department of Corrections* as requestors are indispensable parties in a PRA injunction suit such as this. Disability Rights Washington should know this as it was ordered by a Pierce County Superior Court judge to serve the News Tribune in 2018 when it sought a PRA TRO blocking production of public records to the News Tribune regarding an assault by a Western State Hospital patient on a WSH nurse. I would think after that experience, where the judge demanded the requestor be notified and afforded an opportunity to be heard, that you and your colleagues would have provided more advance warning you would be seeking a TRO today other than the below email, and that the order would not have been presented as "unopposed", which could have misled the judge.

I also question why the case is in (1) in federal court and (2) in Eastern Washington.

In future, please communicate directly with me regarding this matter for the News Tribune. But again, you need to serve my client directly as I cannot accept original service of process, and the below email was not sufficient.

Michele Earl-Hubbard



Mailing address:
P.O. Box 33744
Seattle, WA 98133
(206) 801-7510 phone
(206) 428-7169 fax
michele@alliedlawgroup.com
www.alliedlawgroup.com

----- Forwarded message -----

From: **Joe Shaeffer** <joe@mhb.com>

Date: Thu, Apr 8, 2021 at 1:14 PM

Subject: Doe v. DOC, Sinclair and Interested Parties - Lawsuit Filed

To: akelly617@icloud.com <akelly617@icloud.com>, agranillo@bonneville.com
<agranillo@bonneville.com>, stacia.glen@thenewstribune.com
<stacia.glen@thenewstribune.com>

Cc: Forster, Katherine <Katherine.Forster@mto.com>, Ethan Frenchman <ethanf@dr-wa.org>,
Nancy Talner <TALNER@aclu-wa.org>, Dibble, Candie M (ATG) <candie.dibble@atg.wa.gov>

Dear Ms. Kelly, Mr. Granillo, and Ms. Glenn:

I am writing to you on behalf of the ACLU of Washington Foundation and Disability Rights Washington, and our clients, who are current and former transgender, non-binary, and intersex inmates and in custody of the Washington Department of Corrections.

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In the folder below you will find all documents that have been filed in this matter. Please let me know if you have any questions.

 [DOES v DOC - Filings through 2021-04-08](#)

Sincerely,
Joe Shaeffer

Joe Shaeffer | Attorney | MacDonald Hoague & Bayless
705 Second Avenue, Suite 1500 | Seattle, WA 98104
 206.622.1604 | Fax 206.343.3961 |  joe@mhb.com | www.mhb.com

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Juan Cornejo
Assistant General Counsel
McClatchy
2100 Q Street
Sacramento, CA 95816-6899
tel: (916) 321-1848
jcornejo@mcclatchy.com

This communication may contain Confidential or Attorney-Client Privileged Information and/or Attorney Work Product. If you are not the addressee indicated in this message or its intended recipient (or responsible for delivery of the message to such person(s)), do not read, copy, or forward this message to anyone and, in such case, please immediately destroy or delete this message, including any copies hereof, and kindly notify the sender

| by reply e-mail, facsimile or phone. Thank you.

--

Juan Cornejo
Assistant General Counsel
McClatchy
2100 Q Street
Sacramento, CA 95816-6899
tel: (916) 321-1848
jcornejo@mcclatchy.com

This communication may contain Confidential or Attorney-Client Privileged Information and/or Attorney Work Product. If you are not the addressee indicated in this message or its intended recipient (or responsible for delivery of the message to such person(s)), do not read, copy, or forward this message to anyone and, in such case, please immediately destroy or delete this message, including any copies hereof, and kindly notify the sender by reply e-mail, facsimile or phone. Thank you.

EXHIBIT 3

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON

John Doe I, et al

VS.

Plaintiff(s),

Washington State Department of Corrections, et al

Defendant(s),

Case No.: 4:21-cv-05059-TOR

DECLARATION OF SERVICE

The undersigned, being first duly sworn on oath deposes and says: That he/she is now and at all times herein mentioned was a resident of the United States, over the age of eighteen years, not a party to or interested in the above entitled action and competent to be a witness therein.

That on 4/12/2021 at 11:25 AM at the address of 711 Capitol Way S Ste 204, Olympia, within Thurston County, WA, the undersigned duly served the following document(s): Summons for The McClatchy Company, LLC, d.b.a. The Tacoma News Tribune (Issued); Summons for The McClatchy Company, LLC, d.b.a. The Tacoma News Tribune (Non-Issued); Complaint for Declaratory and Injunctive Relief; Declaration of Dan Karasic; Civil Cover Sheet; Declaration of John Doe I; Declaration of John Doe 2; Summons for WA State Dept. of Corrections (Issued); Summons for WA State Dept. of Corrections (Non-Issued); Declaration of Jane Doe I; Summons for Stephen Sinclair, Sect. of the Depart. of Corrections (Issued); Summons for Stephen Sinclair, Sect. of the Depart. of Corrections (Non-Issued); Declaration of Jane Doe 2; Declaration of Jane Doe 3; Summons for Bonneville (Issued); Summons for Bonneville (Non-Issued); Plaintiff's Motion for Provisional Class; Summons for Andrea Kelly (Issued); Summons for Andrea Kelly (Non-Issued); [Proposed] Order Granting Plaintiff's Motion; Declaration of Joe Schaeffer; Declaration of David Carlson; Declaration of Katherine M. Forster; Unopposed Motion to Exceed Page Limit; Declaration of Nancy Talner; Notice of Appearance; [Proposed] Order Granting Plaintiff's Unopposed Motion for Excess Page Limit; Order Granting Motion for Temporary Restraining Order; Motion to Proceed in Pseudonym; [Proposed] Order to Proceed in Pseudonym; Notice of Electronic Filing; Expedited Unopposed Motion For Temporary Restraining Order to Preserve the Status Quo; Plaintiff's Motion for Preliminary Injunction; [Proposed] Order Grating Plaintiff's Motion for Preliminary Injunction; Declaration of Ethan Frenchman; Declaration of Kathleen Dennehy-Fay in the above entitled action upon The McClatchy Company, LLC d.b.a. The Tacoma News Tribune, by then and there personally delivering 1 true and correct set(s) of the above documents into the hands of and leaving same with Jeff Miner, Representative for CT Corporation System, Registered Agent, who is authorized to accept service on behalf of the above.

Physical description of person served: Gender: Male | Skin Color: White | Age: 45 | Height: 6' 3" | Weight: 220 | Hair: Brown

I declare under penalty of perjury under the laws of the state of WASHINGTON that the foregoing is true and correct.

DATE: 4/13/2021
TOTAL: \$ 175.85



J. DeWitt
Registered Process Server
License#: 1030264 - Expiration Date: 6/2/2021
Seattle Legal Messengers
4201 Aurora Avenue N, #200
Seattle, WA 98103
(206) 443-0885